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# U.S. Attorney Faces Penalty in CIA Case

By RONALD J. OSTROW, *Times Staff Writer*

WASHINGTON—Justice Department officials are considering placing U.S. Atty. William H. Kennedy of San Diego on administrative leave or taking disciplinary action against him if he continues to refuse to resign.

Kennedy has spurned a request by Associate Atty. Gen. Rudolph W. Giuliani that he resign for his role in divulging the identity of a key CIA source in Mexico and Central America.

Officials are known to be reluctant to recommend to President Reagan that he fire Kennedy lest the action focus more attention on the incident and be interpreted as official confirmation of Kennedy's comments.

At the same time, the officials, who declined to be identified, were firm in saying Kennedy must be replaced.

One of them said he made "an extremely serious blunder" last week, when he confirmed that the Justice Department and the CIA had been holding up the indictment of Miguel Nassar Haro on charges of being involved in an international car theft ring. Justice Department officials acknowledged that Nassar Haro had been a valuable source of intelligence for the CIA.

From 1977 until last January, Nassar Haro headed Mexico's Department of Federal Security. Aside from confirming the identity of an intelligence source whose information has said to figure in recent foreign policy decisions, Kennedy "may have violated the Code of (Federal) Regulations by publicly discussing a possible indictment and evidence," one official said.

"I don't see how we could seriously pursue a (future) leak in-

vestigation" if Kennedy is allowed to remain, another official said.

The San Diego U.S. attorney's office is one of the most highly regarded of the 94 U.S. attorney operations, particularly for the model it sets in cooperating with local and state law enforcement entities.

Nevertheless, one Justice Department source said Friday, department officials who work with U.S. attorneys "will obviously take his (Kennedy's) lack of discretion into account."

The Justice Department also had difficulties getting rid of U.S. attorneys during the Jimmy Carter Administration.

Probably the most celebrated incident involved David W. Marston, a holdover Republican U.S. attorney in Philadelphia who was forced out in January, 1978, after former Rep. Joshua Eilberg (D-Pa.) sought to hasten his dismissal.

A subsequent Senate investigation failed to establish that Eilberg, who was found under investigation by the Justice Department and was later convicted on corruption charges, was decisive in Marston's departure.

In September, 1980, U.S. Atty. Herman Sillas of Sacramento resigned after the White House Counsel Lloyd Cutler recommended that Sillas "examine his position . . . because the necessary relationship of mutual trust and confidence between the Department of Justice and Mr. Sillas has been impaired."

At the same time, Cutler said his investigation found no proof to support allegations that Sillas had taken a \$7,500 bribe. He said the charges should not damage Sillas' good reputation.